

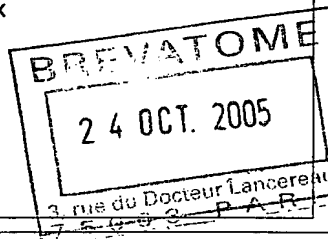
# PATENT COOPERATION TREATY

From the  
INTERNATIONAL PRELIMINARY EXAMINING AUTHORITY

## PCT

To:

Poulin, Gérard  
BREVATOME  
3, rue du Docteur Lancereaux  
F-75008 Paris  
FRANCE



NOTIFICATION OF TRANSMITTAL OF  
THE INTERNATIONAL PRELIMINARY  
REPORT ON PATENTABILITY  
(PCT Rule 71.1)

Date of mailing  
(day/month/year) 21.10.2005

Applicant's or agent's file reference  
B14441.3 ALP

### IMPORTANT NOTIFICATION

International application No.  
PCT/EP2004/052446

International filing date (day/month/year)  
05.10.2004

Priority date (day/month/year)  
14.10.2003

Applicant  
COMMISSARIAT A L'ENERGIE ATOMIQUE ET AL.

1. The applicant is hereby notified that this International Preliminary Examining Authority transmits herewith the international preliminary report on patentability and its annexes, if any, established on the international application.
2. A copy of the report and its annexes, if any, is being transmitted to the International Bureau for communication to all the elected Offices.
3. Where required by any of the elected Offices, the International Bureau will prepare an English translation of the report (but not of any annexes) and will transmit such translation to those Offices.

#### 4. REMINDER

The applicant must enter the national phase before each elected Office by performing certain acts (filing translations and paying national fees) within 30 months from the priority date (or later in some Offices) (Article 39(1)) (see also the reminder sent by the International Bureau with Form PCT/IB/301).

Where a translation of the international application must be furnished to an elected Office, that translation must contain a translation of any annexes to the international preliminary report on patentability. It is the applicant's responsibility to prepare and furnish such translation directly to each elected Office concerned.

For further details on the applicable time limits and requirements of the elected Offices, see Volume II of the PCT Applicant's Guide.

The applicant's attention is drawn to Article 33(5), which provides that the criteria of novelty, inventive step and industrial applicability described in Article 33(2) to (4) merely serve the purposes of international preliminary examination and that "any Contracting State may apply additional or different criteria for the purposes of deciding whether, in that State, the claimed inventions is patentable or not" (see also Article 27(5)). Such additional criteria may relate, for example, to exemptions from patentability, requirements for enabling disclosure, clarity and support for the claims.

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Name and mailing address of the international  
preliminary examining authority:



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# PATENT COOPERATION TREATY

## PCT

### INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

(Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference B14441.3 ALP		<b>FOR FURTHER ACTION</b>		See Form PCT/PEA/416
International application No. PCT/EP2004/052446		International filing date ( <i>day/month/year</i> ) 05.10.2004		Priority date ( <i>day/month/year</i> ) 14.10.2003
International Patent Classification (IPC) or national classification and IPC A61N1/36				
Applicant COMMISSARIAT A L'ENERGIE ATOMIQUE ET AL.				
<p>1. This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.</p> <p>2. This REPORT consists of a total of 5 sheets, including this cover sheet.</p> <p>3. This report is also accompanied by ANNEXES, comprising:</p> <p>a. <input checked="" type="checkbox"/> <i>sent to the applicant and to the International Bureau</i> a total of 5 sheets, as follows:</p> <p><input checked="" type="checkbox"/> sheets of the description, claims and/or drawings which have been amended and are the basis of this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions).</p> <p><input type="checkbox"/> sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box.</p> <p>b. <input type="checkbox"/> (<i>sent to the International Bureau only</i>) a total of (indicate type and number of electronic carrier(s)) , containing a sequence listing and/or tables related thereto, in computer readable form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).</p>				
<p>4. This report contains indications relating to the following items:</p> <p><input checked="" type="checkbox"/> Box No. I Basis of the opinion</p> <p><input type="checkbox"/> Box No. II Priority</p> <p><input type="checkbox"/> Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability</p> <p><input type="checkbox"/> Box No. IV Lack of unity of invention</p> <p><input checked="" type="checkbox"/> Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement</p> <p><input type="checkbox"/> Box No. VI Certain documents cited</p> <p><input type="checkbox"/> Box No. VII Certain defects in the international application</p> <p><input type="checkbox"/> Box No. VIII Certain observations on the international application</p>				
Date of submission of the demand  02.07.2005		Date of completion of this report  21.10.2005		
Name and mailing address of the international preliminary examining authority:  European Patent Office - P.B. 5818 Patentlaan 2 NL-2280 HV Rijswijk - Pays Bas Tel. +31 70 340 - 2040 Tx: 31 651 epo nl Fax: +31 70 340 - 3016		Authorized Officer  Loveniers, K  Telephone No. +31 70 340-8983		

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# INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.  
PCT/EP2004/052446

## Box No. I Basis of the report

IP20 REG'd PCT/PTO 14 APR 2006

1. With regard to the **language**, this report is based on the international application in the language in which it was filed, unless otherwise indicated under this item.
  - ☐ This report is based on translations from the original language into the following language , which is the language of a translation furnished for the purposes of:
    - ☐ international search (under Rules 12.3 and 23.1(b))
    - ☐ publication of the international application (under Rule 12.4)
    - ☐ international preliminary examination (under Rules 55.2 and/or 55.3)
2. With regard to the **elements\*** of the international application, this report is based on *(replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report):*

### Description, Pages

1-27 as originally filed

### Claims, Numbers

1-22 received on 02.07.2005 with letter of 24.06.2005

### Drawings, Sheets

1/10-10/10 as originally filed

☐ a sequence listing and/or any related table(s) - see Supplemental Box Relating to Sequence Listing

3. ☐ The amendments have resulted in the cancellation of:
  - ☐ the description, pages
  - ☐ the claims, Nos.
  - ☐ the drawings, sheets/figs
  - ☐ the sequence listing (*specify*):
  - ☐ any table(s) related to sequence listing (*specify*):
4. ☐ This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).
  - ☐ the description, pages
  - ☐ the claims, Nos.
  - ☐ the drawings, sheets/figs
  - ☐ the sequence listing (*specify*):
  - ☐ any table(s) related to sequence listing (*specify*):

\* If item 4 applies, some or all of these sheets may be marked "superseded."

**INTERNATIONAL PRELIMINARY REPORT  
ON PATENTABILITY**

International application No.  
PCT/EP2004/052446

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**Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement**

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1. Statement

Novelty (N)	Yes: Claims	1-22
	No: Claims	
Inventive step (IS)	Yes: Claims	
	No: Claims	1-22
Industrial applicability (IA)	Yes: Claims	1-22
	No: Claims	

2. Citations and explanations (Rule 70.7):

**see separate sheet**

**INTERNATIONAL PRELIMINARY  
REPORT ON PATENTABILITY  
(SEPARATE SHEET)**

100/579700  
IAP20 REGD. 14 APR 2006  
International Application No.

PCT/EP2004/052446

**Re Item V.**

1 The following documents are referred to in this communication:

D1 : US 2002/077670 A1 (ARCHER STEPHEN T ET AL) 20 June 2002 (2002-06-20)

D2 : US 2003/125786 A1 (FOWLER BRAD ET AL) 3 July 2003 (2003-07-03)

2 INDEPENDENT CLAIM 1

2.1 The present application does not meet the criteria of Article 33(1) PCT, because the subject-matter of **claim 1** does not involve an inventive step in the sense of **Article 33(3) PCT**.

The document D1 is regarded as being the closest prior art to the subject-matter of claim 1, and discloses (the references in parentheses applying to this document):

A cerebral electrostimulation device (see par. 15) containing at least one commutation device (see fig. 13) comprising

- switching means (312);
- at least one input (310) and several outputs each connected to at least one biocompatible electrode (314) or at least one active area of a biocompatible electrode, the commutation device being used to selectively connect at least one input to one or more outputs (see par. 86).

The subject-matter of claim 1 therefore differs from this known electrostimulation device in that the switching means comprises electromechanical bistable switches included in a microelectromechanical system.

The problem to be solved by the present invention may therefore be regarded as how to consume less energy in a switching system (see application's description, p. 5, lines 2-5).

This solution is however widely known to a person skilled in the art of switches, hence rendering it obvious to the skilled man to apply such electromechanical bistable switches in the microstimulator of D1, thereby arriving at a microstimulator according to claim 1.

2.2 For the sake of completeness, it is pointed out that also when he starts from document D2 (see figs. 8, 22; par. 111, last but one sentence; and par. 126), the skilled person would choose the well-known feature of the electromechanical bistables without the exercise of inventive skill, in order to solve the problem posed.

### 3 INDEPENDENT CLAIM 16

The present application does not meet the criteria of Article 33(1) PCT, because the subject-matter of **claim 16** does not involve an inventive step in the sense of **Article 33(3) PCT**, for the same reasons as mentioned in par. 2 of the present communication, mutatis mutandis.

### 4 DEPENDENT CLAIMS 2-15, 17-22

Dependent **claims 2-15, 17-22** do not contain any features which, in combination with the features of any claim to which they refer, meet the requirements of the PCT in respect of inventive step (**Article 33(3) PCT**):

- claim 2: see D1, par. 126, last sentence
- claim 3: see D1, par. 126: "external programmer"
- claims 4, 5: see D1, par. 126
- claim 6: see D2, par. 112, last sentence
- claims 7, 8: see D1, fig. 22, (636); or see D2, fig. 8, (810)
- claims 9, 10: see D2, par. 111
- claim 11: see D1, par. 86, first sentence
- claims 12, 17: see D1, fig. 22, (622, 624)
- claims 13, 18: see D1, par. 85, last sentence
- claims 14, 19: see D1, fig. 13, (316, 418, 338)
- claim 15: see D1, fig. 22, (622)
- claim 20: see D1, par. 2: implantable neurostimulator
- claims 21, 22: see D1, par. 86, first sentence